

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

13 CV 3265

RAUL RODRIGUEZ,

(In the space above enter the full name(s) of the plaintiff(s).)  
Plaintiff,

-against-

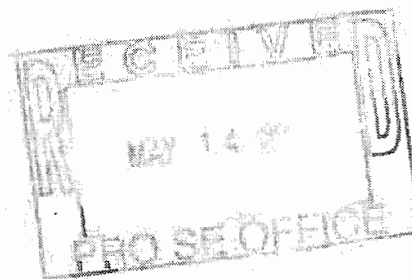
JOSE LUIS ONGAY,

Defendant.

COMPLAINT

Jury Trial: ☒ Yes ☐ No  
(check one)

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)



I. Parties in this complaint:

- A. List your name, address and telephone number. If you are presently in custody, include your identification number and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff	Name	<u>Raul Rodriguez</u>
	Street Address	<u>#56226-066, FCI-Otisville, P.O. Box 1000</u>
	County, City	<u>Orange, Otisville</u>
	State & Zip Code	<u>New York 10963-1000</u>
	Telephone Number	<u>N/A</u>

- B. List all defendants. You should state the full name of the defendant, even if that defendant is a government agency, an organization, a corporation, or an individual. Include the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1      Name Jose Luis Ongay  
Street Address 527 Cooper Street  
County, City Camden, Camden  
State & Zip Code New Jersey 08102  
Telephone Number (484) 681-1117

Defendant No. 2      Name \_\_\_\_\_  
Street Address \_\_\_\_\_  
County, City \_\_\_\_\_  
State & Zip Code \_\_\_\_\_  
Telephone Number \_\_\_\_\_

Defendant No. 3      Name \_\_\_\_\_  
Street Address \_\_\_\_\_  
County, City \_\_\_\_\_  
State & Zip Code \_\_\_\_\_  
Telephone Number \_\_\_\_\_

Defendant No. 4      Name \_\_\_\_\_  
Street Address \_\_\_\_\_  
County, City \_\_\_\_\_  
State & Zip Code \_\_\_\_\_  
Telephone Number \_\_\_\_\_

**II. Basis for Jurisdiction:**

Federal courts are courts of limited jurisdiction. Only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case involving the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one state sues a citizen of another state and the amount in damages is more than \$75,000 is a diversity of citizenship case.

A. What is the basis for federal court jurisdiction? (check all that apply)

☐ Federal Questions

☒ Diversity of Citizenship

B. If the basis for jurisdiction is Federal Question, what federal Constitutional, statutory or treaty right is at issue? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

C. If the basis for jurisdiction is Diversity of Citizenship, what is the state of citizenship of each party?

Plaintiff(s) state(s) of citizenship New York

Defendant(s) state(s) of citizenship New Jersey  
\_\_\_\_\_

### III. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. Where did the events giving rise to your claim(s) occur? Defendant's tortious conduct occurred in Philadelphia, Pennsylvania and touched upon plaintiff in Otisville, New York.

B. What date and approximate time did the events giving rise to your claim(s) occur? Beginning in approximately April 2011 and concluding on approximately February 25, 2013.

C. Facts: Defendant is an attorney who previously maintained an office in Philadelphia, Pennsylvania. In April 2011, defendant was retained to represent plaintiff in a federal criminal appeal (USA v. Raul Rodriguez, Third Circuit No. 11-2030). In exchange for fees paid, defendant agreed to perform all necessary work on the matter. Defendant breached the oral contract and committed legal malpractice by: 1) failing to adequately consult with plaintiff about what issues should be raised; 2) failing to raise all available non-frivolous issues; 3) failing to timely provide plaintiff with a copy of the government's brief; 4) failing to file a reply brief; 5) failing to request oral argument; and 6) failing to notify plaintiff of the court's decision affirming the judgment below, thereby forever forfeiting plaintiff's right to petition for rehearing in the Third Circuit and/or petition for a writ of certiorari in the United States Supreme Court.

What happened to you?

Who did what?

Was anyone else involved?

Who else saw what happened?

### IV. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received. As a direct and proximate result of defendant's tortious conduct, plaintiff was deprived of a meaningful direct appeal of his criminal conviction and forfeiture of the right to seek certain further review. Plaintiff has also suffered financial loss and emotional distress.

**V. Relief:**

State what you want the Court to do for you and the amount of monetary compensation, if any, you are seeking, and the basis for such compensation. Plaintiff moves for judgment in his favor and against defendant and compensatory damages of \$100,00.00 for injuries suffered from defendant's breach of contract and legal malpractice.

**I declare under penalty of perjury that the foregoing is true and correct.**

Signed this 9th day of May, 2013.

Signature of Plaintiff

Raul Rodriguez  
Raul Rodriguez

Mailing Address

#56226-066, P.O. Box 1000

P.O. Box 1000

Otisville, NY 10963-1000

Telephone Number

N/A

Fax Number (if you have one) N/A

**Note:** All plaintiffs named in the caption of the complaint must date and sign the complaint. Prisoners must also provide their inmate numbers, present place of confinement, and address.

**For Prisoners:**

I declare under penalty of perjury that on this 9th day of May, 2013, I am delivering this complaint to prison authorities to be mailed to the Pro Se Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff:

Raul Rodriguez  
#56226-066

Inmate Number